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## DRUG ADDICTION



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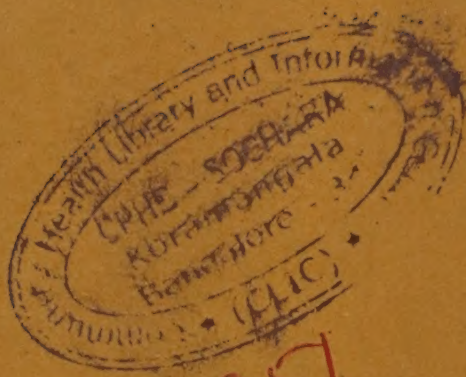


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## 01. INTRODUCTION

The Narcotic Drugs have had a unique place in medical sciences to relieve human sufferings and ailments. These herbs were being used all over the world as pain relievers, sleep inducing and as tension suppressors since many centuries. These highly useful substances (but destructive-when abused) were restricted only for their uses of medical or religious purposes by the societies throughout the world under rigorous and ruthless powers of law, and social customs.

The efficacy of Opium (the oldest known drug) as medicine and its dangers when abused were very well summarised by Celsus, a Roman Physician of the first century as,

**"Homer sang of it, Hannibal died of it and Nero gained power with it."**

In the Indian context an old sanskrit saying reads, "Amrit (Nectar) is the immortalising celestial drink. Too much of even that will work like a killer poison." This holds true even for the drugs, the so called wonder drugs of the ages. Dhanvantari, Charaka, Susruta and many other 'Vaidyas' (Practitioners of Ayurvedic Medicine) used herbs to alleviate pain and to cure diseases. Organised cultivation of opium in India is reported only during the Sixteenth century, although in China the opium (poppy) plant was being cultivated since Seventh Century AD.



Since the mid-nineteenth century, drug abuse has been spreading world-wide as a result of; the increased illegal production and thus availability of narcotic drugs, growing mental stress and strain, socio-economic changes, rapid urbanisation, modernisation and resultant mass unemployment, and erosion in moral and religious values and, above all, ruthless exploitation of humanity by hardened criminals for their quick personal gains, and riches.

Drug abuse is now recognised as a global problem that needs to be tackled at an international level. It has spread to every field. From the late 60s. the media all over the world, especially in the west has knowingly or unknowingly glamourised drug addiction. Even the sad demise of world famous stars and singers, like; Jimmy Page, Jimmy Hendrix and John Lennon were visualised in a glamorous drug association. Ben Johnson, the famous 100 meters sprinter has won even more publicity for his drug addiction. More and more young people are today becoming the victims of drug addiction due to one or the other reason. A report of the **World Health Organisation (WHO)** estimates the number of drug addicts in the world to a staggering over five crores. The actual number can even be much more. The international trade in narcotics has become so lucrative, that many mafia syndicates in the U. S. have diversified from extortion and gambling to peddling. Indeed the underworld involvement is such that the U. S. Government has earmarked US \$ 258 million for drug prevention in the first quarter of 1989.

In India the problem of drug abuse was not so serious up to the seventies. It was only after the dethronement of the Shah of Iran, followed by Iran-Iraq war and Afghan Invasion



that the main transit of the **Golden Crescent** was stopped. The drug traffickers now looked towards Bombay (India) as a transit zone and for entry to the west of these spurious drugs. The 'get rich soon' image of the average Indian dreamer got a momentum with the lure of enormous profits in the heroin business. (The price of 1 Kg of heroin varies from Rs. 30,000, in Pakistan to, Rs. 1 Lakh in Delhi, Rs. 2 Lakh in Bombay, US \$ 1,00,000 (App. Rs. 18,00,000) in USA and finally US \$ 10,00,000 in the streets of USA). So the seeds of heroin abuse were sown in India.

By 1985, the germination of the problem in India was almost complete. There were 80,000 drug addicts in Bombay alone and a sizeable number in other metropolitan cities of Calcutta, Delhi and Madras. The Synthetic drugs like heroin, smack, cocaine, marijuana, morphine, Brown Sugar, L. S. D. etc., are now available in every city of the country. Even the states like Sikkim, Manipur and Madhya Pradesh are not spared by its menace. The addicts are no more confined to the elite-moneyed class, neither to some elite colleges and schools. A sizeable number of drug addicts are from amongst truck drivers, taxi/three wheeler drivers, shoe-shine boys, unemployed youth and labourers. It was substantiated by a 1988 survey conducted by ASHIANA, a rehabilitation centre in New Delhi that the majority of the addicts were from the lower classes of society. Heroin addiction is becoming popular among slum dwellers, especially in Bombay. These people can hardly manage more than a square meal a day. Easy availability of drugs and the association of these people in the illicit trafficking, in retail sale, are the reasons for the wide-spread of the drug menace amongst the lower strata of society. Heroin cuts down two basic human drives the sex drive and hunger.



The problem of drugs in the country, therefore, is not only of drug trafficking but of drug abuse as well. The **Narcotic Drug and Psychotropic Substances (NDPS) Act, 1985**, and its amendment in 1988 were introduced for tackling the problem of drug abuse. The 'Act' has not been effective enough in curbing the illegal trade in narcotics. Small time operators and addicts rather than the organised dealers have usually been arrested. Further, Act has a very inhuman approach towards the drug addicts. Despite drug addiction being classified as a disease by the **World Health Organisation** and the **Diagnostics and Statistics Manual of Psychiatry**, the **Indian Act** equates an addict with a criminal as stated by Dr. Yusuf A. Merchant, an active researcher and psychiatrist on drug use or misuse. Sentence in jail to these condemned innocents would turn them into hardened criminals and it would weigh heavier on society.

It is, therefore, felt that whereas on one side the laws have to be made stringent prescribing rigorous punishment and the security forces have to be well organised to get hold of the mafia chief (rather than the small traders and traffickers). On the other hand a more humane approach is needed in the medical treatment of the addicts; to provide motivation, detoxication and rehabilitation, rather than punishment.

## **02. BASIC CONCEPTS**

### **2.1 Drug :**

Drug is a chemical substance associated with distinct and/or psychological effects. From a pharmacological viewpoint, a drug is any substance which chemically alters the



structure or function of living organism. In sociological frame of reference drug is a term of habit-forming substance which directly affects the brain or nervous system. The main drugs are categorised as under :

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S. No.	Type	Drugs
<hr/>		
1.	Socially acceptable and freely available	Tea, Coffee, Tobacco, Alcohol.
2.	Socially unacceptable and freely available	Glue, Petrol, Solvents, Cleaning fluids.
3.	Socially acceptable and prohibited or restricted pharmaceuticals	Barbiturates, Diazepam (Labrium, etc) other prescription drugs.
4.	Socially unacceptable and prohibited substances	Opium, Morphine, Heroin. Cocaine, L. S. D., Cannabis (Ganja) etc.

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## 2.2 Drug Addiction :

The prolonged use of drugs leads to the dependence of body on them and this is called 'drug addiction'. The 'Expert Committee on Addiction' in its report says that 'addiction to a drug means that the body becomes so dependent to the particular toxic effect of the drug that one just cannot do without it' (7th Report, Technical Report Services No. 116 (1957). WHO describes drug dependence as "a state, psychic and sometimes also physical, resulting from taking a drug,



characterised by behavioural and other responses that always include a compulsion to take a drug on a continuous or periodical basis in order to experience its psychic effects and sometimes to avoid the discomfort of its absence. Tolerance may or may not be present. A person may be dependent on one or more than one drugs" (W. H. O. 1978)

### **2.3 Drug Addiction : Its' effects :**

The direct impact of drugs on human beings are difficult to be established as the bio-chemical and neurophysiological processes involved are both complex and difficult to isolate. But powerful agents do affect the mind, mood, biological cycles, levels of energy, and the inter-personal behaviour of human beings. These agents are intoxicants, sedatives, tranquilizers, stimulants, anti-depressants, narcotics and hallucinogens. Broadly, the drugs can be classified into the following :

#### **1. Stimulants :**

Amphetamines and related drugs come in the category of stimulants. Stimulants addiction characterises excessive activity, excitability, talkativeness and profuse perspiration. It results in extreme nervousness and irritation.

#### **2. Depressants :**

Barbiturates and certain tranquilisers are known as depressants. It exhibits symptoms of intoxication. It results in slowness of motion, slurred speech, confusion, staggering, stumbling and disorientation.

#### **3. Hallucinogens :**

L. S. D. and cannabis come under the Hallucinogens category. Its' addicts become fearful and experience a degree of terror.



### 03. IMPACT OF DRUG ADDICTION

Primarily the goal of the nation in banning the drugs is the protection of health of its citizens, because there are many a related ill impacts of the use of drugs on the society. The losses thus are personal, psychological, physical, behavioural, social, economic and moral. Legally, therefore, a physician's prescription is required to obtain these drugs. Further, it prohibits the production, possession and distribution of such dangerous drugs. The increasing use of drugs and massive built up of powerful drug syndicates is an indication of socio-economic crisis of the future. The use of drugs not only adversely affects the health but it also causes loss of man-power and retards the moral and economic growth of the nation. It has resulted a drain on National Health Service, loss of potential and has also added a burden on the national economy. The impact of drug use on the society can be broadly grouped as under :

#### 3.1 Social Impact :

Excessive use of drugs results in anti-social behaviour, maladjustment of the victims of drug addiction in the social system and disorganisation of the socio-cultural system. Initially, a person once having tried on drugs, continue with it because drugs dampen anxiety over his future, help him relax from pressure and gives him a dream place of his liking. Now the necessity of obtaining a drug from illicit sources often exposes the user to persons involved in various deviant behaviour. Drug use directly affects attitudes, beliefs and values and it may possibly act as a catalyst, making the individual more susceptible to the influence of others in a deviant subculture.



In case of male addicts, the drug use is mainly related to income extorsive crimes while prostitution is a major source of support among female addicts. According to a study 'The Etiologic Relationship between Drug use and Criminality' conducted by Mc Glothlin in USA, about half of all female addicts indicated prostitution as their primary means of support at some time during their addiction career. In India also many a under world syndicates are luring females through drug use and once addict these females compromise at any social or moral cost.

The drug addicts are misfit in the social system and are parasites in the society. The youth having uncombed hair, swollen red eyes, staggering steps, and deteriorated mental and physical faculties indicate the social visibility of the problem. This problem in India is unique in both the cultural backdrop and the socio-economic perspective. Drug addiction has cut through class, race and religious barriers and has severely hit all sections of society, specially those living below the poverty line. Earlier the problem of drug addiction was among the students and moneyed class of the society. Today social class, age, education, occupation seem to be no bar to drug addiction.

### **3.2 Economic Impact :**

The economic impact of drugs can be assumed from its varying market rates. As against the price of Rs. 30,000 per kg of heroin, varying in purity from 40 to 60 per cent, in Pakistan its price reaches Rs. 1,00,000 in Delhi and Rs 2,00,000 in Bombay. As it reaches in the USA, the procuring market, a kg of heroin fetches US \$ 1,00,000 and at the street level in New York the staggering price is US \$ 1 million. According to a study, the drug business is estimated at US \$ 150



billion in the United States alone. It is well known how unchecked drug syndicates have destroyed the economy of some Latin American countries. The retail value of drugs produced overtook the value of the gross domestic products. In Columbia in 1987, the GDP was \$ 27.5 billion, the retail value of the drugs produced was \$ 29.8 billion. In Mexico, the GDP was \$ 93.0 billion and the retail value of drugs produced was \$ 27.8 billion. In Peru and in Bolivia the GDP was \$ 19.5 billion and \$ 2.8 billion while the gross value of drugs produced was \$ 46.3 billion and \$ 20.6 billion, respectively.

The enormous profits generated by these syndicates cannot be easily converted into productive enterprises due to national and international laws and administrative problems. This money, therefore, results in squandering in real estates, bureaucratic corruption, building up of parallel power centres and luxurious lifestyles. Such money is legitimised by way of transfer of money to tax heavens and their subsequent re-entry through many a loopholes in the existing legislation. It shows up in a country's financial and monetary system as a prime cause of inflation, devaluation and flight of capital.

### **3.3 Drugs and Crime :**

Once a youth is graduated into the use of drugs he becomes misfit in his social circle. He now moves among his under-world neighbours, involved in petty crimes. Addiction to one drug facilitates other deviant activities through association and trade. He may be exposed to more addictive and expensive drugs, whose use is generally related to income generating crimes. A high rate of homicides among drug users involved in trafficking signifies that violence, as well as property crime, is associated with the illegal market. Drug use leads



to crime through drug-induced personality changes or reduced economic opportunities. Drug related crimes are thefts, burglary, robbery, flesh trade, forgery and gambling. Apart from these crimes, at times drug related crimes result in serious consequences. For example, killing of witnesses, silencing betrayers, inter-gang rivalry and killings in encounters with the law enforcement agencies. Drug traffickers believe in silver or lead. If silver fails lead silences. There have been a number of killings by the powerful drug mafias, famous among these are; The Attorney General of Columbia in 1988 and his successor later. Twelve Supreme Court judges and more than 200 Columbian national police officers have since been liquidated by these syndicates.

Apart from the crimes committed either under the influence of drugs or in the drug trade, a drug addict is a potential danger to the society. A driver who drives a public vehicle, a mechanic who repairs a vehicle, a doctor who treats patients or a person in any trade can be a potential danger if he is a compulsive user of drugs. The law enforcement agencies cannot treat him as an innocent victim. He is obviously accountable for his criminal behaviour resulting in the sufferings to persons for which he alone has been responsible.

#### **04. DRUGS : THE LAW**

##### **4.1 Drug Trafficking :**

Geographically, India is situated between two chief sources of opium trade in the world. The Golden Triangle and the Golden Crescent. Golden Crescent consists of opium



producing areas of Pakistan, Afghanistan and Iran. According to an estimate the Golden Crescent produces 1000 metric tonnes of opium, bulk of which is converted in to heroin. Delhi and Bombay are the major exit points of opium smuggled through India. Statistics of seizure indicate that 84.3 per cent of heroin and 84.4 per cent of hashish seized in 1988 were of golden crescent origin. The Indo-Nepal border is the main transit of the **Golden Triangle**. Generally half of the 'ganja' seized in India is usually of this origin. Burma is the another major source. According to reports atleast 80,000 to 1,00,000 hectares are under illicit opium cultivation in Burma with a potential of producing 1000-1200 metric tonnes of opium. Laos and Thailand are the other source countries of the Golden Triangle.

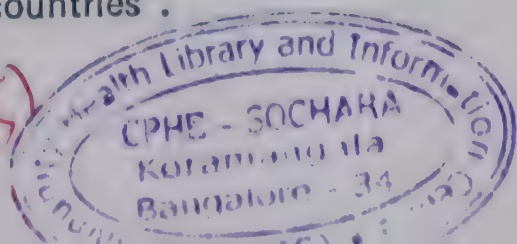
Even internally there are reports of illicit cultivation of drug plants in many parts of India. Prominent among them are Chakrata hills of Dehradun district (UP) for poppy cultivation, Jammu and Kashmir region and Ukhrul district of Manipur for illicit ganja cultivation and Idukki district of Kerala for cannabis.

#### 4.2 National Concern :

Predominant feeling of welfare for the people of India and of the International Community motivated the fathers of the Indian Constitution to insert specific deterrant provisions about narcotics. Historically, the view of Indian National Congress was always against addiction. Mahatma Gandhi's ideas provided momentum to the congress view. All India Congress Committee had passed a resolution in June, 1924 as :

"In the opinion of the AICC the opium policy of the Government of India is altogether contrary to the moral welfare of the people of India and other countries".

15952





It also appointed C. F. Andrews to investigate into the nature and extent of the opium evil in Assam. He made a representation on behalf of the AICC to the League of Nation's Conference on Opium in Geneva during November, 1924. Mahatma Gandhi and Rabindra Nath Tagore sent separate telegrams to the Conference communicating Indian National feelings against opium policy of the British Government of India.

## **1. Constitutional Provisions :**

**Article 253** of the Constitution enjoined upon the Parliament to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

**In Article 47**, the Constitution directs that the State shall regard raising the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and drugs which are injurious to health.

**Entry 59 of list I of the Seventh Schedule to Article 246** of the Constitution gives exclusive authority to the Parliament to make laws on cultivation, manufacture and sale for export of opium.

**In terms of Entry 51 of List II of the Seventh Schedule** the State Legislatures are given exclusive power to make



laws to levy duties of excise on the following goods manufactured or produced in the state and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India.

- (a) Alcoholic liquors for human consumption
- (b) Opium, Indian hemp and other narcotic drugs and narcotics; but not including medicinal and toilet preparation containing alcohol or any substance included in sub-paragraph (b) of this entry.

Under Entry 19 of List III of the Seventh Schedule drugs and poisons, subject to the provisions of Entry 59 of List I in respect of opium, fall under concurrent list.

Indian Constitution has thus divided the powers of legislation and control over opium and other narcotic drugs between the Central and State Governments.

## 2 Legislative Provisions :

The Government of India through many legal, administrative and preventive steps has been able to come up to the challenge of the present day drug abuse. Long term imprisonment and heavy fines are charged under various laws. The **Narcotics control Bureau** was set up as a central authority to regulate national and international drug enforcement. The other central agencies like the Customs and Central Excise Departments, the Directorate of Revenue Intelligence, the Narcotics Control Bureau, the Economic Intelligence Bureau and the other State Excise Authorities and the State Drug Control Administration are also vested with powers of investigation. The investigating agencies not only help in seizure of



narcotic drugs and psychotropic substance, but are also active in eradication of illicit cultivation of opium, poppy and ganja in the country.

First recorded instance of poppy cultivation in India indicate Cambay and Malwa as the places where it was grown during the 15th Century. **Aine-Akbare** also mentions extensive cultivation of opium in many parts of the country during the 16th century. During **Mughal regime** opium was used as a pain relieving, sleep inducing and tension suppressing medicine and was under state monopoly. In 1773, when British took over larger parts of the Peninsula, the then Governor General, Lord Warren Hastings, brought the opium trade under government control. Since then many regulations were made for the manufacture and trade of opium. Prior to the enactment of Narcotic Drugs and Psychotropic Substances Act, 1985, the statutory control over opium and other narcotic drugs was exercised in India through three **Central enactments**, i. e., the **Opium Act, 1857**, the **Opium Act, 1878** and the **Dangerous Drugs Act, 1930**.

As a first major step in curbing the drug menace, in 1985, the **Narcotic Drugs and Psychotropic Substances Act, 1985** (See Appendix-A) was passed by the Parliament. This Act has consolidated the earlier enactment and provide sufficient teeth to the law enforcement agencies in the form of deterrent punishments to drug traffickers. It covers the entire range of narcotic drugs and psychotropic substances and prohibits their non-medical and non-scientific uses, in compliance with the International Treaties and Conventions. The law provides for a mandatory minimum imprisonment of ten years



with a monetary fine of Rs. 1 lakh extendable up to 20 years imprisonment and fine of Rs. 2 lakhs. On a second conviction, the mandatory minimum punishment would be 15 years and a fine of Rs. 1.5 lakhs extendable up to 30 years with a fine of Rs. 3 lakhs.

This Act was amended by the **Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988 (2 of 1989)**. The salient features of this Act include provisions for; (i) forfeiture of property derived from dangerous drugs, (ii) constitution of a National Fund for Control of Drug Abuse, (iii) A new section 31 A provides death penalty on second conviction in respect of specified offences of certain drugs, (iv) Section 36-A provides for constitution of special courts, its jurisdiction, powers, etc, (v) Section 37 provides that every offence punishable under the Act shall be cognizable and non-bailable, (vi) A new section 52-A provides for pre-trial disposal of seized drugs, etc. The NDPS (Amendment) Act has come into force, with effect from May 29, 1989.

#### **4.3 International Concern :**

International opinion about narcotic drugs was reflected in many international conferences held from time to time.

- (1) The first step towards **international co-operation in narcotics** control was taken in 1909, when thirteen nations met at Shanghai to discuss about the opium evil. The foundation of first international control machinery the '**League of Nations Advisory Committee on the Traffic in Opium and other Dangerous Drugs**' was laid here.



- (2) **Hague Convention** : The '**First International Opium Convention**' was held at **Hague** in **1912**. It formulated the basic principles of International control which have retained their validity to the present day.

Two articles of the convention dealing specifically with opium read as follows;

- ( i ) Contracting parties shall take effective and progressive measures to suppress the manufacture and use of opium prepared for smoking,
- (ii) The contracting parties shall prohibit the import and export of prepared opium.

The Hauge convention's terms did not bind the contracting parties to any thing definite. It was, however, the beginning of a series of international conventions.

Only six countries had ratified the articles of the convention before the first world war broke out.

### (3) **GENEVA Conferences** :

- (i) **First Conference (1924)** : Cannabis was brought into the fold of dangerous drugs for the first time in this convention.

An International body-**Permanent Control Board** was set up to regulate international trade. A system of import and export certificates and customs check was also introduced.

**Dangerous Drugs Act, 1930** is the result of this conference.



(ii) **Second Conference (1931)** : A second conference for 'Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs' was held at Geneva in 1931. It provided for limiting manufacture and regulating distribution of narcotic drugs to world scientific and medical needs. A Drug Supervisory Board was set up to estimate annual drug requirements.

(iii) **Third Conference (1936)** : Another such conference for the suppression of Illicit Traffic in Dangerous Drugs was held at Geneva in 1936 to make illicit drug trafficking a crime of international character.

#### **(4) Role of UNO (United Nations Organisations) :**

After the Second World War responsibility of International control on narcotics shifted to UNO and to its specialised agency – the **World Health Organisation**.

There have been international conferences under the auspices of the UNO. The important international conferences were;

(i) **Single Convention of Narcotic Drugs** : An international convention, known as **Single Convention of Narcotic Drugs**, was held at New York in 1954. It outlawed non-medical use of narcotics and prohibited production of opium-coca leaves and cannabis for non-medical use.

It also set up an **International Narcotic Control Board** in place of Permanent Control Board and Drug Supervisory Board.

#### **(ii) Convention of Psychotropic Substances :**

The other U. N. Convention was held at Vienna in 1971. This convention was known as **Convention on Psychotropic**



**Substances, 1971.** It divided the psychotropic substances in four schedules for the purpose of manufacture, trade and use :

Schedule I      Abuse potential high and no medical use : LSD, Mescaline.

Schedule II      Abuse potential high and limited medical use : Amphetamine.

Schedule III      Abuse potential low and extensive medical use : Barbiturates.

Schedule IV      Abuse potential low and extensive medical use : Tranquillisers.

**The Indian enactment - The Narcotic Drugs and Psychotropic Substances Act, 1985, is an outcome of these two conventions.**

## **5. ROLE OF VOLUNTARY AGENCIES :**

Drug abuse has become a complex phenomenon in the country. Government interventions through rigorous punishments and even capital punishment - can not alone deter the menace of drug. **The harder the law the greater is the profit margin.** The government cannot succeed without a massive involvement of the people. The government through legislation and convictions and through mass awareness media campaigns backed by social workers and common Indian citizens can take up this gigantic challenge. The social agencies or the voluntary agencies are needed for their flexible attitude and swiftness of action. These agencies can take up the services of some ex-addicts also who know better about the trade



More important, in the process of social rehabilitation of the addicts only the voluntary action groups can do some real work. The law looks upon the drug addicts as criminals and thus sentences these innocent people in jail to become hardened criminals. The **Noble laureate Mother Teresa** defends them saying, "Addicts should not be ostracized from society. Why they smoke is not known, so they should not be condemned, they should be made to feel that they are wanted. They should feel that they are cared for".

Social voluntary agencies should help the government of India in not only arresting the drug trafficking but also in the treatment of the drug addicts, through motivation, detoxification and rehabilitation.

**National Centre for Human Settlements & Environment (NCHSE)** in its limited way, can help in the process of creating a drug free society, by creating awareness through seminars, workshops, and by publishing monographs, journals, etc., on the subject. The **Centre** can also conduct case studies on some specific issue of the problem and thus bring out useful material. Further, the Centre, through its sister concern '**AVINASH**' a voluntary social group, active in the help and service of the physically and socially handicapped, down trodden, etc., can also take up the work of social rehabilitation of the drug addict youth.





## APPENDIX-A

### MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 6th September, 1938/Bhadra 15.  
1910 (Saka)

The following Act of Parliament received the assent of the President on the 6th September, 1938, and is hereby published for general information :—

#### THE PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1938

No. 46 of 1938

[6th September, 1938]

An Act to provide for detention in certain cases for the purpose of preventing illicit traffic in narcotic drugs and psychotropic substances and for matters connected therewith.

WHEREAS illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy;

AND WHEREAS having regard to the persons by whom and the manner in which such activities are organised and carried on, and having



regard to the fact that in certain areas which are highly vulnerable to the illicit traffic in narcotic drugs and psychotropic substances, such activities of a considerable magnitude are clandestinely organised and carried on, it is necessary for the effective prevention of such activities to provide for detention of persons concerned in any manner therewith.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows :-

Short title  
extent and  
commencement.

1 (1) This Act may be called the Prevention of illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 4th day of July, 1988.

2 In this Act, unless the context otherwise requires,—

Definitions .

(a) “appropriate Government” means, as respects a detention order made by the Central Government or by an officer of the Central Government, or a person detained under such order the Central Government and as respects a detention order made by a State Government or by an officer of a State Government, or a person detained under such order, the State Government;

52 of 1962.

(b) “customs airport” means any airport appointed under clause (a) of section 7 of the Customs Act, 1962 to be a customs airport;

(c) “detention order” means an order made under section 3.

(d) "foreigner" has the same meaning as in the Foreigners Act, 1946;

31 of 1946.

(e) "illicit traffic", in relation to narcotic drugs and psychotropic substances means—

(i) cultivating any coca plant or gathering any portion of coca plant;

(ii) cultivating the opium poppy or any cannabis plant;

(iii) engaging in the production, manufacture, possession, sale, purchase, transportation warehousing, concealment, use or consumption, import inter-State; export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances;

(iv) dealing in any activities in narcotic drugs or psychotropic substances other than those provided in sub-clauses (i) to (iii); or

(v) handling or letting any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv),

other than those permitted under the Narcotic Drugs and Psychotropic Substances Act, 1985, or any rule or order made, or any condition of licence, term or authorisation issued, thereunder and includes—

61 of 1985.

(1) financing, directly or indirectly, any of the aforementioned activities;

(2) abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and



(3) harbouring persons engaged in any of the aforementioned activities;

52 of 1962.

(f) "Indian customs waters" has the same meaning as in clause (28) of section 2 of the Customs Act, 1962;

(g) "State Government", in relation to a Union territory, means the Administrator thereof;

61 of 1985.

(h) words and expressions used herein but not defined, and defined in the Narcotic Drugs and Psychotropic Substances Act, 1985, have the meanings respectively assigned to them in that Act.

Power to  
make  
orders  
detaining  
certain  
persons.

3 (1) The Central Government or a State Government, or any officer of the Central Government, not below the rank of Joint Secretary to that Government, specially empowered for the purposes of this section by that Government or any officer of a State Government, not below the rank of a Secretary to that Government specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person (including a foreigner) that, with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary so to do, make an order directing that such person be detained

(2) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government shall, within ten days, forward to the Central Government a report in respect of the order.

(3) For the purposes of clause (5) of article 22 of the Constitution, the communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made as soon as may be after the detention, but ordinarily not later than five days, and in exceptional circumstance and for reasons to be recorded in writing, not later than fifteen days, from the date of detention

4 A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973.

Execution  
of  
detention  
orders.

2 of 1974.

5 Every person in respect of whom a detention order has been made shall be liable—

Power to  
regulate  
place and  
conditions of  
detention.

(a) to be detained in such place and under such conditions including conditions as to maintenance, interviews or communication with others, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State by order of the appropriate Government :

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of that other State.



Grounds of  
detention  
severable.

6 Where a person has been detained in pursuance of an order of detention under sub-section (1) of section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

- ( i ) vague,
- ( ii ) non-existent,
- (iii) not relevant,
- (iv) not connected or not proximately connected with such person. or
- ( v ) invalid for any other reason whatsoever,

and it is not therefore possible to hold that the Government officer making such order would have been satisfied as provided in sub-section (1) of section 3 with reference to the remaining ground or grounds and made the order of detention;

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said sub-section (1) after being satisfied as provided in that sub-section with reference to the remaining ground or groups.

7 No detention order shall be invalid or operative merely by reason—

Detention  
orders  
not to  
be invalid  
or inopera-  
tive on  
certain  
grounds.

(a) that the person to be detained there-  
under is outside the limits of the territorial  
jurisdiction of the Government or the officer  
making the order of detention; or

(b) that the place of detention of such  
person is outside the said limits.

8 (1) If the appropriate Government has  
reason to believe that a person in respect of  
whom a detention order has been made has  
absconded or is concealing himself so that the  
order cannot be executed, that Government  
may—

Powers in  
relation  
to abscond-  
ing  
persons.

(a) make a report in writing of the fact  
to a Metropolitan Magistrate or a Magistrate  
of the first class having jurisdiction in the  
place where the said person ordinarily resi-  
des; and thereupon the provisions of sec-  
tions 82, 83, 84 and 85 of the Code of Cri-  
minal Procedure, 1973 shall apply in respect  
of the said person and his property as if the  
order directing that he be detained were a  
warrant issued by the Magistrate;

(b) by order notified in the Official  
Gazette direct the said person to appear  
before such officer, at such place and with-  
in such period as may be specified in the  
order: and if the said person fails to comply  
with such direction, he shall, unless he  
proves that it was not possible for him to  
comply therewith and that he had, within  
the period specified in the order, informed



the officer mentioned in the the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under clause (b) of sub-section (1) shall be cognizable.

Advisory  
Boards.

9 For the purposes of sub-clause (a) of clause (4) and sub-clause (c) of clause (7) of article 22 of the Constitution,—

(a) the Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards, each of which shall consist of a Chairman and two other persons possessing the qualifications specified in sub-clause (a) of clause (4) of article 22 of the Constitution;

(b) save as otherwise provided in section 10, the appropriate Government shall, within five weeks from the date of detention of a person under a detention order, make a reference in respect thereof to the Advisory Board constituted under clause (a) to enable the Advisory Board to make a report under sub-clause (a) of clause (4) of article 22 of the Constitution;

(c) the Advisory Board to which a reference is made under clause (b) shall, after considering the reference and the material placed before it and after calling for such further information as it may deem necessary,

from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do if the person concerned desires to be heard in person, after hearing him in person, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned;

(d) when there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(e) a person against whom an order of detention has been made under this Act shall not be entitled to appear by any legal practitioner in any matter connected with the reference to the Advisory Board and the proceedings of the Advisory Board and its report. excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential;

(f) in every case where the Advisory Board has reported that there is in its opinion sufficient cause for detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit and in every case where the Advisory Board has reported that



there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

Cases in which and circumstances under which persons may be detained for periods longer than three months without obtaining the opinion of Advisory Board.

10 (1) Notwithstanding any thing contained in this Act, any person (including a foreigner) in respect of whom an order of detention is made under this Act at any time before the 31st day of July, 1990, may be detained without obtaining, in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding six months from the date of detention, where the order of detention has been made against such person with a view to preventing him from engaging in traffic in narcotic drugs and psychotropic substances, and the Central Government or any officer of the Central Government, not below the rank of an Additional Secretary to the Government, specially empowered for the purposes of this section by that Government, is satisfied that such person engages or is likely to engage in illicit traffic in narcotic drugs and psychotropic substances into, out of, through or within any area highly vulnerable to such illicit traffic and makes a declaration to that effect within five weeks of the detention of such person.

Explanation 1.—In this sub-section, “area highly vulnerable to such illicit traffic” means—

- ( i ) the Indian customs waters;
- ( ii ) the customs airports;

(iii) the metropolitan cities of Bombay, Calcutta, Delhi, Madras and the city of Varanasi;

(iv) the inland area one kilometres in width from the coast of India falling within territories of the States of Andhra Pradesh, Goa, Gujrat, Karnataka, Kerala, Maharashtra, Orissa, Tamil Nadu and West Bengal and the Union territories of Daman and Diu and Pondicherry;

(v) the inland area one hundred kilometres in width from—

(a) the India-Pakistan border in the States of Gujrat, Punjab and Rajasthan;

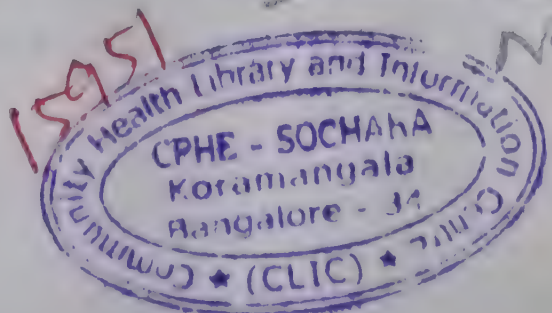
(b) the India-Nepal border in the States of Bihar, Sikkim, Utter Pradesh and West Bengal;

(c) the India-Burma border in the States of Arunachal Pradesh, Manipur, Mizoram and Nagaland;

(d) the India-Bangladesh border in the States of Assam, Meghalaya, Tripura & West Bengal;

(e) the India-Bhutan border in the States of Arunachal Pradesh, Assam, Sikkim and West Bengal,

(vi) such other area or customs stations, as the Central Government may, having regard to the vulnerability of such area or customs station, as the case may be, to illicit traffic, by notification in the Official Gazette, specify in this behalf.





Explanation 2—For the purposes of Explanation 1, “custom station” has the same meaning as in clause (13) of section 2 of the Custom Act, 1962.

(2) In the case of any person detained under a detention order to which the provisions of subsection (1) apply, section 9 shall have effect subject to the following modification namely :—

(i) in clause (b), for the words “shall, within five weeks”, the words “shall, within four months and two week” shall be substituted;

(ii) in clause (c),—

(a) for the words “the detention of the person concerned”, the words “the continued detention of the person concerned” shall be substituted;

(b) for the words “eleven weeks”, the words “five months and three weeks” shall be substituted;

(iii) in clause (f), for the words “for the detention”, at both the places where they occur, the words “for the continued detention” shall be substituted.

Maximum  
period of  
detention.

11 The maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 do not apply and which has been confirmed under clause (f) of section 9 shall be one year from the date of detention, and the maximum period for which any person may be detained in pursuance of any detention order to which the

provisions of section 10 apply and which has been confirmed under clause (f) of section 9, read with sub-section (2) of section 10, shall be two years from the date of detention.

Provided that nothing contained in this section shall affect the power of appropriate Government in either case to revoke or modify the detention order at any earlier time.

12 (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified—

Revocation of  
detention  
orders.

10 of 1897.

(a) notwithstanding that the order has been made by an officer of a State Government, by that State Government or by the Central Government;

(b) notwithstanding that the order has been made by an officer of the Central Government or by a State Government, by the Central Government.

(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.

13 (1) The Central Government may, at any time, direct that any person detained in pursuance of a detention order made by that Government or by an officer subordinate to that Government or by a State Government or by an officer subordinate to a State Government, may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

Temporary  
release of  
persons  
detained.



(2) A State Government may, at any time, direct that any person detained in pursuance of a detention order made by that Government or by an officer subordinate to that Government may be released for any specified period either without conditions or upon such conditions specified in the direction as the person accepts, and may, at any time, cancel his release.

(3) In directing the release of any person under sub-section (1) or sub-section (2), the Government directing the release may require him to enter into a bond with sureties for the due observance of the conditions specified in the direction.

(4) Any person released under sub-section (1) or sub-section (2) shall surrender himself at the time and place, and to the authority, specified in the order directing his release, or cancelling his release, as the case may be.

(5) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (4), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(6) If any person released under sub-section (1) or sub-section (2) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

(7) Notwithstanding anything contained in any other law and save as otherwise provided



in this section, no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise.

14 No suit or other legal proceeding shall lie against the Central Government or a State Government and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

Protection of  
action taken  
in good  
faith.

15 In section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, to sub-section (1), the following provision shall be added, namely :—

Amendment of  
Act 52 of 1974.

“Provided that no order of detention shall be made on any of the grounds specified in this sub-section on which an order of detention may be made under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1938 or under section 3 of the Jammu and Kashmir Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1918”.

16 (1) The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1938, is hereby repealed

Repeal and  
saving.  
J. & K. Ordinance 1 of 1988.  
Ord. 7 of 1988,

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

S. RAMAIAH,  
Secy. to the Govt. of India.



